

Minutes of the Salem City Council Meeting held on May 17, 2006 in the Salem City Council Chambers.

**MEETING CONVENED AT:** 7:00 p.m.

**CONDUCTING:** Mayor J. Lane Henderson

**COUNCIL PRESENT:**

Mayor J. Lane Henderson  
Councilperson Lynn Durrant  
Councilperson Brent V. Hanks  
Councilperson Terry A. Ficklin  
Councilperson Stanley W. Green  
Councilperson Jeff D. Higginson

**STAFF PRESENT:**

Jeffrey Nielson, City Recorder  
Chief Brad James, Police Chief  
David Johnson, Public Works  
Junior Baker, City Attorney  
Bruce Ward, City Engineer

**OTHERS PRESENT**

Dave Grant  
David Varney  
Tresa Fisher

Jeff Simonsen  
Wendy Varney  
Lani Emmich

Camilla Simonsen  
Mark Hanks  
Mark Emmich

**1. VOLUNTEER MOTIVATIONAL/INSPIRATIONAL MESSAGE**

Mayor Henderson asked if anyone would like to give a motivational or inspirational message. Councilperson Stanley Green stated he would like to offer a motivational message in the form of a prayer.

**2. INVITATION TO SAY PLEDGE OF ALLEGIANCE**

Mayor Henderson invited those who would wish to participate, to stand and say the pledge of allegiance with him. He then led the pledge of allegiance for those who wanted to participate.

**3. PUBLIC HEARING**

**MOTION BY:** Councilperson Terry Ficklin to open the public hearing.

**SECONDED BY:** Councilperson Jeff Higginson.

**VOTE:** All Affirmative (5-0).

**a. Ordinance Amending the Municipal Code Concerning Historic Structures.**

Attorney Junior Baker went over the ordinance with the council. There was a request several weeks ago to look at changing the ordinance on attached buildings and structures. Planning and Zoning have reviewed this and made their recommendations. He then went over the ordinance and the definitions. He asked if there were any questions or concerns. Dave Johnson mentioned that we should take out the Spanish Fork City portion before we sign it. There were no other questions or concerns.

**b. Dave Grant – Conditional Use for Flag Lot at 353 W. 300 S.**

It was stated that this flag lot was owned by Paul Hair, and then sold to Dave Grant. Dave is applying to build on the flag lot. It meets the current requirements for a flag lot. Councilperson Hanks stated that the neighbors are against it, that they do not want a home in their back yard. Attorney Baker stated that if it meets all of the requirements, the council can put conditions on it, but would need to approve it. When the flag lot came to council before, they were required to put a fence around the area. Planning and Zoning recommendation was to put curb, gutter and sidewalk in front, and vision barrier fence around the home.

Teresa Fisher owns the old Hair home; the flag lot is in their back yard. She has an irrigation ditch going through the flag lot, she is wondering about it and whether Dave would be required to pipe it. Attorney Baker stated that according to the subdivision ordinance the ditch would be required to be piped. She is also concerned about the type of fence, she has some dogs that she does not want going into the neighbor's property. Attorney Baker stated that it would be her responsibility to keep her dogs in her yard, not the neighbors. The fence that would be installed would be a six foot barrier fence.

**MOTION BY:** Councilperson Lynn Durrant to close public hearing.

**SECONDED BY:** Councilperson Brent Hanks.

**VOTE:** All Affirmative (5-0).

**a. Ordinance Amending the Municipal Code Concerning Historic Structures**

**MOTION BY:** Councilperson Stanley Green to approve Ordinance 51706 Amending the Municipal Code Concerning Historic Structures.

**SECONDED BY:** Councilperson Jeff Higginson.

**VOTE:** All Affirmative (5-0).

**b. Dave Grant – Conditional Use for Flag Lot at 353 W. 300 S.**

Bruce Ward stated that the land owners around the flag lot are concerned with the fence and making sure that the property line is correct. They feel that the existing fence is not in the correct place, and when the new fence is put up they want it in the correct place. Attorney Junior Baker stated that this would not be a city issue.

Councilperson Hanks does not like to see people building upon each other, when there is a lot of property in other places to build. Councilperson Higginson has the same concern as Councilperson Hanks; he does not like to see homes go into the middle of a lot. Councilperson Green feels they do not add anything to the community. Mayor Henderson told the council, that they can table it and study it out, but right now it meets the city's flag lot ordinance. Attorney Baker stated that when the older part of town was laid out it had these bigger lots. As the residents get older they are unable to take care of the lots, and they become a nuisance. So when the past councils created the flag lot ordinance, they looked at it as a way to help out the older residents and also to help with the nuisance.

Mayor Henderson mentioned he had a resident come to him that wants to split his lot, but wanted to maintain the animal rights. Because the split lot would be less than an acre he would not qualify for animal rights. He was wondering about changing animal rights to half an acre. Mayor felt that this would also help out some of our flag lot issues, if we allow animals on half an acre; that would keep the nuisance down. There are still a lot of lots that would qualify for flag lots, and he sees why the council created the flag lot ordinance, but he feels the council should consider looking at it and seeing about allowing animal rights on smaller lots. Councilperson Green mentioned he would like to re-evaluate the flag lot ordinance.

**MOTION BY:** Councilperson Green to table Dave Grant's request for a flag lot, and to also have Planning and Zoning consider reviewing the flag lot ordinance and to consider reducing the animal right requirements from an acre to half an acre.

**SECONDED BY:** Councilperson Jeff Higginson.

**VOTE:** All Affirmative (5-0).

Mayor Henderson stated that we do not want to eliminate the flag lot ordinance, but look at it to see if it can be revised.

**4. JEREMY JOYNER – CHRISMAN DRIVE**

Mayor Henderson turned the time over to David Johnson. Dave stated that Jeremy Joyner's father owns the property, and he is currently going through some rough family problems at the moment. It is getting close to the deadline of when we asked the property owners to have the improvements done, in order to abandon the road. Dave stated that

Jeremy told him that his father does not really care at the moment. Mayor Henderson asked if the city has staked out the area, because someone has gone over there and staked it out. Dave stated that the city has not. Attorney Baker stated that the property owners were given until June 1<sup>st</sup> to have the improvements done. Dave mentioned that all of the property owners, there are three of them, all wanted to have the road abandoned, and the improvements put in. If the improvements are done, then the abandoned property would be divided up between the three. Right now I guess there is no decision to be made; no one came in for an extension on the date the improvements needed to be done.

## **5. AWARD IMPACT FEE STUDY CONTRACTS**

Bruce Ward reported that last council meeting he was asked to put a summary of the impact fee proposals together. He has broken down the impact fee studies between Horrocks Engineering and Aqua Engineering. He had a spread sheet that he showed to the council showing the break out. His thought process of the break out is that Aqua has worked with Salem in the past on water and sewer issues. He feels that Aqua would be qualified for the Culinary Water, Sewer, Storm Drain, and Pressurized Irrigation impact fee studies. Horrocks has worked with streets in other cities, and it is a very complicated issue. He felt they would be qualified for Parks, Streets, and Public Safety impact fee studies. He would like to have Aqua do a demographic study, rather than have both of them doing one, and share it. The cost estimate for Aqua is \$45,244, and Horrocks is \$25,500. The break out is as follows; Demographic, \$2,284; Culinary Water, \$9,656; Sewer, \$9,516; Parks, \$4,000; Storm Drain, \$13,724; Pressurized Irrigation, \$10,724; Streets, \$17,000; and Public Safety \$4,500. This would be a total of eight impact fees; Storm Drain, Pressurized Irrigation, Streets, and Public Safety will all be new fees. Funding for the studies can be paid by impact fees. We should be able to pay for the new fees that will be created after they are completed.

**MOTION BY:** Councilperson Brent Hanks to approve the impact fee study break out as it has been recommended by Bruce Ward.

**SECONDED BY:** Councilperson Terry Ficklin.

**VOTE:** All Affirmative (5-0).

Judge Sam McVey asked the mayor if he could go into public comment right now. Mayor Henderson stated he could and asked Judge McVey if he had a concern. He stated that at Dick Hanks' subdivision, on 80 south, there is about 200 feet of ditch that is only being used by one person right now. With the PI system coming soon, this ditch will not be used, and he was wondering if they can put a hold on piping it at this time. The cost to pipe it would be about \$2,000 to \$3,000. Bartell Mortensen, Salem Canal Company, wants it piped. Of the two lot owners in the subdivision that it would affect, the ditch would be in their back yard, and it is only used once every ten days just for the one person who has a small lot. When talking with Bruce Ward, he felt that the PI system could be in place in this area around next year. Dick Hanks felt that it would be a waste of money to pipe the ditch now, and then have it not used in a year. Attorney Baker

stated that when the subdivision was approved, this was one of the conditions; it is in our construction standards to be done. But, this is going to be one issue that will come up, because we are going to do the PI system and many ditches will become abandoned. Dave Johnson stated that it would put a liability on the city for that short amount of time when the irrigation is in the ditch. Attorney Baker stated he does not feel it would put a liability to the city. He stated that Dick has a year to have the improvements done. Judge McVey was wondering about doing a bond for the pipe. Mayor Henderson stated that there are going to be other issues like this that come up. He would like to have Councilperson Green work with Bruce Ward to look into the issues and the standards, and see if we can come up with a solution.

Mayor Henderson asked if anyone else had anything for open discussion. David Varney stated that he presented to the council his eagle project a few months ago; he was going to build a small storage shed at the library. He had to change that project due to the library situation, but he has a new idea. He handed the council a handout showing what he wants to do. He contacted the DUP (Daughters of Utah Pioneers), who have the cabin at Heritage Park, and asked them about a picnic table and pavilion by the cabin. They thought it was a great idea. He wants to do a cement slab, 20 feet by 20 feet, which will be donated. He would then put a picnic table and a carport over the table. On the highway there is a person who sells portable carports. The company will come in and install the carport for them. The cost for the carport would be \$1,005 for the 20 feet by 20 feet.

Councilperson Hanks was wondering if there was enough room in the area for it. David stated that there would be. Councilperson Higginson felt that the picnic table is a great idea, but does not feel we need to have the covering. Councilperson Green felt that the covering should tie in more with the cabin. Councilperson Higginson recommended doing the cement slab and the picnic tables, but not the covering. The cost for the tables and supplies would be \$298. David stated that he would also be putting sealing on the cabin, and that the DUP would be paying for the sealing. Mayor Henderson suggested also sealing the fence at the same time. Jeff Nielson explained the reimbursement, and how the city will reimburse the cost after the project is completed. Councilperson Higginson told David that when he gets ready to lay it out to get a hold of someone in the city to come and help, so we do not cover up any sprinklers or pipe.

Dave Grant asked the council about the public hearing for his flag lot. Mayor Henderson told Dave the public hearing started at 7:00 p.m. and that the council had some concerns with the flag lot, and wanted to review the standards and look at what the conditions were from other meetings. He told him that it does meet the criteria for flag lot, but the council tabled it until next council meeting.

Camilla Simonsen asked if the council could approve her Preliminary Plat for her subdivision at 1160 South 750 East. She stated she was supposed to be on the agenda tonight at council, but the office staff accidentally forgot to put her on the agenda. She is wondering if the council could do anything tonight. It was stated that the council could not do anything tonight, that it needs to be an agenda item. But they could hold a special

council meeting on Friday, May 19, 2006 at 12:00 noon. Camilla and the council were okay with that.

## **6. ORDINANCE AMENDING TEMPORARY ELECTRIC DEPOSIT REQUIREMENTS**

This item was discussed after the business licenses.

### **7. BUSINESS LICENSE**

#### **a. Nancy Proctor – On Line Retail Sales**

Mayor Henderson reported that Nancy Proctor, at 878 South 320 East, would like a home occupation business license for doing sales online. There will not be any customers coming to the home; all business will be done online. There will occasionally be deliveries to the home. It has been approved by all of the appropriate people.

**MOTION BY:** Councilperson Brent Hanks to approve the business license.

**SECONDED BY:** Councilperson Lynn Durrant.

**VOTE:** All Affirmative (5-0).

## **6. ORDINANCE AMENDING TEMPORARY ELECTRIC DEPOSIT REQUIREMENTS**

Attorney Junior Baker stated he had been working with Dave Johnson on this. Currently we require a builder to put up a \$500 bond; this was done because we used to have builders allowing the homeowner to move in before a certificate of occupancy is issued. Sometimes there are minor issues, and we allow the homeowner to move in. Some of these situations are due to weather, and the items needing to be completed have to wait until the weather is better. The problem is that some of the builders do not complete some of these items, and they are not worried about the \$500. Dave recommended changing the \$500 to \$1,000 and allow the builder to have until May 15 to finish the home. If the builder does not finish, then allow the homeowner to finish and turn in receipts for refund of the bond. Each situation will be different though; will have to take it case by case

There was some discussion on improvement bonds for sidewalks and streets. Wondering if this would be the same issue. Attorney Baker stated that ordinance discussed is not the same as the sidewalk improvement bond. In most cases this ordinance is for new subdivisions where the sidewalk and streets are already completed. Dave Johnson stated that most of the time it is the final grade not being completed, or other small items. This

is where this bond would come into affect. We will need to have council support in some cases when the bond has to be used.

**MOTION BY:** Councilperson Brent Hanks to approve Ordinance 51706A Amending Temporary Electric Deposit Requirements from \$500 to \$1,000.

**SECONDED BY:** Councilperson Stanley Green.

**VOTE:** All Affirmative (5-0).

## **8. APPROVE MINUTES OF MAY 3, 2006**

**MOTION BY:** Councilperson Lynn Durrant to approve the minutes of May 3, 2006 as written.

**SECONDED BY:** Councilperson Terry Ficklin.

**VOTE:** All Affirmative (5-0).

## **9. APPROVE BILLS FOR PAYMENT**

Councilperson Jeff Higginson asked about the donation that Lew Christenson was going to make for the score boards. It was stated that both Lew and Evelyn were going to donate \$5,000 each. Councilperson Higginson asked if Jeff Nielson would get an invoice or a letter ready for them.

**MOTION BY:** Councilperson Jeff Higginson to approve the bills for payment.

**SECONDED BY:** Councilperson Lynn Durrant.

**VOTE:** All Affirmative (5-0).

## **10. PUBLIC SAFETY**

Police Chief Brad James reported on the house fire in Woodland Hills that our Fire Department responded to. Salem City was the first on scene, even before Woodland Hills. We were able to save a lot of other property from being damaged. He read a letter complimenting our fire department. He is very proud of them, and felt that everything went smoothly. They used their skills that they have been training on. Payson, Elk Ridge, Woodland Hills and Salem fire departments were all on the scene.

Also, the 911 test calls that happened at the first of the month, there were 491 calls made, and dispatch found 84 errors, most of them being in Woodland Hills area.

### **a. SEMA Grant Money**

Chief James was not sure what this item was. It was thought that it is for approval to use the grant money. SEMA Captain Erman Stone could not be reached to ask him.

## **11. OPEN DISCUSSION**

Open Discussion went after item number five.

## **COUNCIL REPORTS**

### **12. MAYOR J. LANE HENDERSON**

### **13. COUNCILPERSON LYNN DURRANT**

Councilperson Durrant did not have anything to report tonight.

### **14. COUNCILPERSON BRENT V. HANKS**

Councilperson Hanks stated the Corps of Engineers has approved the land for the new city shop. There is a building that he would like to get ordered, they have a deal on a 60 foot by 96 foot building, and the cost would be \$41,500. It would not have a concrete floor, but would be gravel. We would be able to put the jet truck, and big dump truck, with other equipment under the building. Attorney Junior Baker stated that by Utah State Law we would need to get bids out. He felt we should get the specs of the building and then contact other companies on doing a notice of bid. By law we have to do this. Councilperson Hanks stated that we also need to look at hiring someone to move the building that was donated to the city. He feels the cost would be around \$7,000 - \$10,000 to move the building. Attorney Baker felt that we should get bids on it also.

Councilperson Hanks mentioned Pond Town Christmas, and how the city crew is against having people drive around the knoll to see the story book and Pond Town Christmas. We will be able to charge a fee to allow people to drive around the knoll. He said one of the concerns is safety, but he feels we could put cement barricades around the edge to help with safety. Mayor Henderson was wondering if there was a way to do it without having people drive around the knoll in their vehicles. Some discussion came up about a train or a carriage ride. Mayor Henderson asked if this is something that needs to make money right now. Chief James stated he likes the idea, but does not feel it would be safe to drive around the knoll; his other concern is getting the fire vehicles or the ambulance there if needed. He told the council that he will support the decision they make, but as public safety director, he will give his recommendations as far as safety. Dave Johnson stated that there are some very narrow parts around the path, which we might not be able to widen. Councilperson Higginson is concerned about the wideness also and not sure about the cost to widen the path, if it would be cost effective. It was discussed that it is a great concept, but feel it might not be the safest at this time. Maybe look at other ways to incorporate the book idea.



#### **15. COUNCILPERSON STANLEY W. GREEN**

Mayor Henderson stated he had a question on PI system regarding the retirement subdivision. They have two water meters for all of the outdoor watering there. How are we going to bill them? Is each home going to be billed, or is the home owners association (HOA) going to pay for it. Right now the HOA pays the water bill for the two meters. Councilperson Ficklin feels we need to come up with a formula for the different lot sizes, and for situations like this. Bruce stated that other cites have done studies on this, and can see about getting some of their information.

#### **16. COUNCILPERSON TERRY A. FICKLIN**

Councilperson Ficklin was wondering about a theme for Salem Days, he handed to the council a list, and was wondering if they had any suggestions. He is also wondering about the auction for the library and about having a pageant. After some discussion, he stated he would get a hold of Dorothy Jensen to see if she would do the pageant. The auction will also be a silent auction this year for the library. He handed a list of events to the council. He has assigned them to different events, along with someone who might be willing to help. He encourages the councilmember's to get a hold of the people to make sure they were okay with doing the events.

He also reported that the solid waste district is going to increase the cost per tonnage. So our cost for solid waste will be increasing.

#### **17. COUNCILPERSON JEFF D. HIGGINSON**

Councilperson Higginson reported that the memorial ceremony is set for Monday May 29, at 8:00 a.m. Also on June 2<sup>nd</sup>, at 6:30 p.m., will be naming the new baseball park. We have sent letters to former coaches, and past council members. He plans on having hotdogs and a movie afterwards.

#### **18. DAVE JOHNSON, PUBLIC WORKS DIRECTOR**

Dave Johnson reported on the new storage building at the ball park. Originally the plan was going to be a 20 foot by 30 foot building. After some discussion, in a prior council meeting, it was determined to make it bigger. The new footage is 24 feet by 34 feet and the cost will still be under \$5,000. The excavation for the footings has started, and on schedule with Walker Construction to get going on the building.

Chief James reported that he could not get a hold of Captain Erman Stone of SEMA to find out about the grant. It is his recommendation to approve the use of the grant money, with the condition that it is approved by him.

**MOTION BY:** Councilperson Terry Ficklin to approve the spending of the SEMA Grant money with condition that Chief James approves it.

**SECONDED BY:** Councilperson Lynn Durrant.

**VOTE:** All Affirmative (4-0). Councilperson Hanks had stepped out of the council chambers.

## **19. ATTORNEY S. JUNIOR BAKER.**

Attorney Baker has scheduled a Land Use training for June 14, at 6:00 p.m. for Spanish Fork City. He is inviting Salem City Council and Planning and Zoning to attend also. Spanish Fork has paid to have the person come, so if we get enough people from Salem, we may be asked to help with the cost. He feels it would be very beneficial to attend; it will help with a lot of situations they will be faced with.

Attorney Baker talked about the Dave Grant situation. Once a person has vested interest, we can impose conditions, but if they meet the requirements, we really can not deny them. With Dave Grant, we can still look at changing the ordinance, but he would not be affected by the changes, he would fall under the current ordinance before the changes. Councilperson Ficklin was wondering about the conditions. Attorney Baker stated that they have to be reasonable conditions. He stated that we could place a moratorium on flag lots for six months; this would stop any more from coming in until we can revise the ordinance, by having Planning and Zoning and the City Council review it. The question came up that we have tabled Dave Grant's request tonight. Attorney Baker stated that the council should look at it, and come up with some conditions. One of the concerns that came up was the ditch, and if it should be piped or abandoned. The canal company has the authority to abandon a ditch. We also need to find out if the person who the ditch is servicing if they actually have water rights. It was determined that we need to put Dave Grant back on the agenda for next council meeting, and that the council needs to look at the conditions that have been placed during prior meetings.

## **ADJOURN CITY COUNCIL MEETING**

**MOTION BY:** Councilperson Terry Ficklin to adjourn city council meeting.

**SECONDED BY:** Councilperson Stanly Green.

**VOTE:** All Affirmative (5-0).

**MEETING ADJOURNED AT:** 9:45 p.m.

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Jeffrey Nielson, City Recorder